

Notice of Allowability

Application No.

10/671,648

Examiner

Qamrun Nahar

Applicant(s)

DMITRIEV, MIKHAIL A.

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 07/03/2007.
2. ☒ The allowed claim(s) is/are 1-6, 8-17, 19-28 and 30-33, renumbered 1-30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

1. This action is in response to the amendment filed on 07/03/2007.
2. The objections to the specification are withdrawn in view of applicant's amendment.
3. The objections to claims 4, 15 and 26 are withdrawn in view of applicant's amendment.
4. The rejection under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention to claims 4-6, 11, 15-17, 22, 26-28 and 33 is withdrawn in view of applicant's amendment.
5. The rejection under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter to claims 12-33 is withdrawn in view of applicant's amendment.
6. The rejection on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-30 of copending Application No. 10/654522 in view of Bennett (U.S. 6,934,935) to claims 1-33 is withdrawn in view of applicant's submission of terminal disclaimer.
7. The rejection under 35 U.S.C. 102(e) as being anticipated by Bennett (U.S. 6,934,935) to claims 1-10, 12-21 and 23-32 is withdrawn in view of applicant's amendment.
8. The rejection under 35 U.S.C. 103(a) as being unpatentable over Bennett (U.S. 6,934,935) in view of Angel (U.S. 6,314,558) to claims 11, 22 and 33 is withdrawn in view of applicant's amendment.
9. Claims 1, 4-5, 11-12, 15-16, 22-30 and 32-33 have been amended.
10. Claims 7, 18 and 29 have been canceled (See Examiner's Amendment below).
11. Claims 1-6, 8-17, 19-28 and 30-33 are pending.
12. Claims 1-6, 8-17, 19-28 and 30-33 are allowed, renumbered 1-30.

Terminal Disclaimer

13. The terminal disclaimer filed on 07/03/2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on Application No. 10/654522 has been reviewed and is accepted. The terminal disclaimer has been recorded.

EXAMINER'S AMENDMENT

14. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Shun Yao (Reg. No. 59,242) on July 11, 2007.

The application has been amended as follows:

In the Claims:

Please cancel claims 7, 18 and 29; and

Please amend claims 1, 12 and 23 as follows:

Claim 1 (Currently Amended),

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At line 8, after “;” delete [and]

At line 14, after “before” insert ; and wherein instrumenting the methods involves dynamically patching the methods while the target application is executing

7. (Canceled)

Claim 12 (Currently Amended),

At line 12, after “;” delete [and]

At line 18, after “before” insert ; and wherein instrumenting the methods involves dynamically patching the methods while the target application is executing

18. (Canceled)

Claim 23 (Currently Amended),

At line 6, after “;” delete [and]

At line 17, after “before” insert ; and wherein the second circuit is configured to instrument the methods by dynamically patching the methods while the target application is executing

29. (Canceled)

- END -

REASONS FOR ALLOWANCE

15. The following is an examiner's statement of reasons for allowance:

The cited prior art taken alone or in combination fail to teach, in combination with the other claimed limitations, upon executing a given instrumented method, determining if the given instrumented method is about to be executed for the first time, and if so, instrumenting methods that, are called by the given instrumented method, are loaded, and have not been instrumented before; and wherein instrumenting the methods involves dynamically patching the methods while the target application is executing as substantially recited in independent claims 1, 12 and 23.

The closest cited prior arts, Bennett (U.S. 6,934,935) and Angel (U.S. 6,314,558) taken in combination teaches a method of instrumenting methods. However, Bennett (U.S. 6,934,935) and Angel (U.S. 6,314,558) taken in combination fail to teach upon executing a given instrumented method, determining if the given instrumented method is about to be executed for the first time, and if so, instrumenting methods that, are called by the given instrumented method, are loaded, and have not been instrumented before; and wherein instrumenting the methods involves dynamically patching the methods while the target application is executing as substantially recited in independent claims 1, 12 and 23; and as pointed out by the applicant's remarks/arguments on pg. 16, par. 1-4.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

16. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (571) 272-3730. The examiner can normally be reached on Mondays through Fridays from 9:30 AM to 6:00 PM.

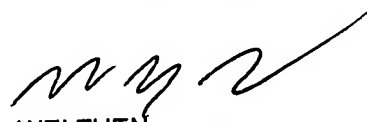
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y Zhen, can be reached on (571) 272-3708. The fax phone number for the organization where this application or processing is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Qamrun Nahar
July 17, 2007



WEI ZHEN
SUPERVISORY PATENT EXAMINER